

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

v.

DAMIAN ARD,

Defendant.

DECISION AND ORDER
24-CR-39-A

This case was referred to Magistrate Judge Jeremiah J. McCarthy pursuant to 28 U.S.C. § 636(b)(1) for the conduct of pretrial proceedings. On March 27, 2024, Defendant Damian Ard appeared before Magistrate Judge McCarthy, waived his right to indictment (Dkt. No.12) and entered a plea of guilty to a two-count Information (Dkt. No. 13), which charges him with one count of possession of cocaine with intent to distribute, in violation of 21 U.S.C. § 841(a)(1) and one count of felon in possession of firearms and ammunition in violation of 18 U.S.C. § 922(g)(1), pursuant to a written plea agreement. (Dkt. No. 14).

Magistrate Judge McCarthy issued a Report and Recommendation (Dkt. No. 16) confirming his oral findings that Defendant's plea of guilty was knowing, voluntary, and supported by a factual basis. No timely objections to the Report and Recommendation have been filed. It is hereby

ORDERED that, upon review of the waiver of indictment (Dkt. No. 12), the information (Dkt. No. 13), the plea agreement (Dkt. No. 14), and the plea transcript (Dkt. No. 17) of the March 27, 2024, change-of-plea proceeding before the Magistrate Judge;

and the Report and Recommendation, the Court finds that all the requirements of Federal Rules of Criminal Procedure Rule 11 have been carefully followed. Defendant's waiver of his right to indictment together with his plea of guilty were knowing, voluntary, and supported by a factual basis. The Magistrate Judge informed Defendant, who was placed under oath and addressed personally in open court, of Defendant's rights and the trial rights he was waiving should the Court accept his plea of guilty, the nature of the charge to which he was pleading guilty, and any maximum possible penalty, among the other requirements listed in the Rule. The Magistrate Judge determined that Defendant understood the foregoing. Accordingly, Defendant's plea of guilty is accepted based upon the oral findings of the Magistrate Judge as confirmed in the written Report and Recommendation.

Sentencing is scheduled for July 25, 2024 at 12:30 pm. The parties are directed to the Court's forthcoming Text Order for the submission of sentencing documents.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: April 16, 2024
Buffalo, New York